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IN THE

Supreme Court of the United States

October Term — 1960

PETITION FOR CERTIORARI

No. 733

SOUTHERN CROSS STEAMSHIP CO., INC.
Petitioner,

v.

GEORGE FIRIPIS,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT O FAPPEALS FOR THE FOURTH CIRCUIT

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Southern Cross Steamship Company, Inc., owner of the Honduran Steamship MARGARITIS prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fourth Circuit entered in the above case on December 28, 1960.

CITATIONS OF OPINION BELOW

The memorandum opinions of the District Court printed in the Appendix are unreported at this printing. The opinion of the Circuit Court of Appeals, printed in the Appendix hereto, infra 23a, has at the time of the writing this Petition not been published in West Federal Reports advance sheets.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered on December 28, 1960. The jurisdiction of this Court is invoked under the provisions of Title 28 U. S. C. §1254 (1).

STATUTES INVOLVED

The statutes involved are 46 U. S. C. A. 688 commonly known as the Jones Act and 46 U. S. C. A. 596 commonly known as the double wage or penalty statutes.

STATEMENT

The libellant, George Firipis, is a Greek citizen holding Greek seaman's papers. On March 13, 1958, at Bremen, Germany, libellant last signed Articles aboard the SS MARGARITIS (see Articles this Appendix). The SS MARGARITIS is a large merchant vessel owned by Southern Cross Steamship Company., a Liberian corporation. At the time libellant last signed Articles at Bremen, Germany, on March 13, 1958, the MARGARITIS flew the Honduran flag and the Articles executed by the libellant affirmatively provided that in case of injury the rights of the seaman and obligations of the ship owner were to be governed exclusively by the laws of the Republic of Honduras. (See paragraph 9 of Articles in Appendix). On April 1, 1958, while the MARGARITIS lay at Norfolk, Virginia, the libellant slipped on deck and injured his hand.

Thereupon libellant was removed from the MARGARITIS to the U. S. P. H. S. Hospital at Norfolk and was on the date last mentioned discharged from the MARGARITIS.

At the time of libellant's injury the stock of Southern Cross Steamship Company, Inc., was owned twenty percent (20%) by a United States citizen and eighty percent (80%) by Greek citizens. (See Appendix p. 15a).

At the time of his discharge from the MARGARITIS libellant was due $53.34 in wages accruing since he last signed Articles at Bremen, Germany, on March 13, 1958. These wages were paid libellant by the vessel's Norfolk agent on April 2, 1958, in return for which the agent obtained a receipt signed by libellant which stated libellant acknowledged payment of his wages in full. (See finding of District Court, Appendix p. 20a).

On April 14, 1958, libellant filed his libel in this case. On August 22, 1958, libellant gave his deposition and on this date and at this time respondent's proctor first learned that libellant was claiming $81.25 in wages allegedly unpaid him from a prior voyage.

On December 27, 1959, the case was heard by the District Court sitting in admiralty. Thereafter, the District Court rendered its memorandum opinion and supplemental memorandum opinion which it adopted as its fiindings of fact and conclusions of law. The District Court found the respondent liable for negligence under the Jones Act, 46 U. S. C. A. 688, and liable for double wages under 46 U. C. S. A. 596 from August 22, 1958,

the date libellant gave his deposition until said wages and penalties were paid.

The judgment of the District Court was affirmed by the Circuit Court of Appeals for the Fourth Circuit on December 28, 1960.

QUESTIONS PRESENTED

I. WHETHER 46 U. S. C. A. 688 COMMONLY KNOWN AS THE JONES ACT IS APPLICABLE WHERE A GREEK SEAMAN IS INJURED ON A HONDURAN VESSEL IN A UNITED STATES PORT WHEN THE VESSEL OWNER IS A LIBERIAN CORPORATION EIGHTY (80) PERCENT OF WHOSE STOCK IS OWNED BY GREEK CITIZENS AND ONLY TWENTY (20) PERCENT OF WHOSE STOCK IS OWNED BY A UNITED STATES CITIZEN AND WHERE THE HONDURAN CONSUL OFFERS TO SETTLE THE CLAIM UNDER THE PROVISIONS OF HONDURAN LAW, THE LIBELLANT HAVING STIPULATED IN SIGNING ARTICLES THAT HONDURAN LAW SHOULD APPLY IN SUCH CLAIMS.

II. WHETHER OR NOT THIS COURT'S INTERPRETATION OF 46 U. S. C. A. 596 AS SET FORTH IN McCREA v. UNITED STATES, 294, U. S. 23 IS STILL THE LAW OF THE LAND.

III. WHETHER DOUBLE WAGES UNDER 46 U. S. C. A. 596 CAN BE ASSESSED AGAINST A FOREIGN SHIPOWNER WHO FAILS TO PAY A FOREIGN SEAMAN WAGES DUE AT TERMINATION OF ARTICLES IN A FOREIGN PORT.

REASONS FOR GRANTING THE WRIT

I. The application of the Jones Act under the facts of the case at bar is in direct conflict with the

principles laid down by this Court in *Lauritzen v. Larsen,* 345 U. S. 571 and in *Romero v. International Term Co.,* 358 U. S. 354.

In the case at bar the vessel MARGARITIS flew the Honduran flag. The libellant was a Greek seaman who last signed Articles at Bremen, Germany. (See Articles in Appendix). These Articles specifically provided that the rights of the seaman and obligations of the shipowner should be determined by the laws of the Republic of Honduras (see paragraph 9 of Articles in Appendix). The Honduran consul at Norfolk offered to adjudicate the differences between the parties here involved and the Court below so found (Opinion Court of Appeals, page 4, Appendix). The vessel MARGARITIS was owned by a Liberian corporation. Eighty (80) percent of the stock of this Liberian corporation was owned by Greek citizens, while the remaining twenty (20) percent was owned by a United States citizen, at the time libellant was injured, (see Appendix, p. 15a). The libellant was injured in the course of his employment while the MARGARITIS was drydocked at Norfolk, Virginia.

The Circuit Court has sought to distinguish the case at bar from *Lauritzen, supra.,* on the grounds that it is an exception to that doctrine in that it falls within the purview of the following dicta expressed by Justice Jackson found in *Lauritzen, supra.,* at 345 U. S. 587, and quoted by the Circuit Court below:

> "But it is common knowledge that in recent years a practice has grown, particularly among American shipowners, to avoid stringent shipping